

The Health Insurance Portability and  
Accountability Act of 1996  
and  
Its Impact on the Department of Mental  
Health and Our Contract Providers

Updated  
January 14, 2002

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# Health Insurance Portability and Accountability Act of 1996

- ▶ HIPAA is a Federal Law (Public Law 104-191)
- ▶ HIPAA
  - ▶ Addresses insurance plan requirements
  - ▶ Expands federal fraud and abuse enforcement abilities
  - ▶ Provides for health insurance portability
  - ▶ Promotes medical savings accounts
  - ▶ **Mandates Administrative Simplification Standards**
    - ▶ This sub-section has the greatest impact on DMH and our contract providers

# Impact of HIPAA

- ▶ HIPAA has been called the most sweeping legislation to affect the healthcare industry in more than 30 years.
- ▶ It will affect almost all healthcare transaction processes as well as information systems that generate or store healthcare data.
  - ▶ This includes those of the DMH and our contract providers.
- ▶ Most experts agree cost of compliance will outdistance Y2K.
  - ▶ The American Hospital Association estimated a cost of \$22.5 billion for hospitals over 5 years.

# Key Provisions of HIPAA

- ▶ The HIPAA law and its regulations apply to all health plans, clearinghouses, and providers that transmit any health information electronically.
- ▶ Health information is any information that:
  - ▶ relates to the health or condition of an individual, or
  - ▶ the provision of healthcare, or
  - ▶ the payment of healthcare items or services, and
  - ▶ was created by or received by a provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse.
- ▶ All covered entities must comply with each regulation 2 years after the regulation is final.

# Key Provisions of HIPAA

- ▶ HIPAA regulations (except privacy) will supercede state laws, unless the Secretary of the US Department of Health and Human Services grants the state a waiver.
- ▶ The privacy regulation supercedes those portions of other federal or state law or regulation that provide less protection of privacy of personal health information.
- ▶ The federal government estimates that HIPAA will save \$3-5 billion annually in transactions costs when fully implemented.
  - ▶ Providers will have one standard way to bill private insurance, Medicaid, Medicare, and DMH.

# National Standards Mandated by HIPAA

- ▶ HIPAA will mandate national standards for:
  - ▶ Electronic transactions
    - ▶ Transaction sets for claims related transactions
    - ▶ Code sets for diagnosis, therapy, and treatment
    - ▶ Single Identifier Numbers for providers, payers, and employers
  - ▶ Privacy/confidentiality of personal health information
    - ▶ To protect client information from misuse
  - ▶ Security
    - ▶ Safeguards around client information systems preventing unauthorized access
- ▶ All covered entities will have to comply with these national standards.
  - ▶ DMH and our contract providers are covered entities.

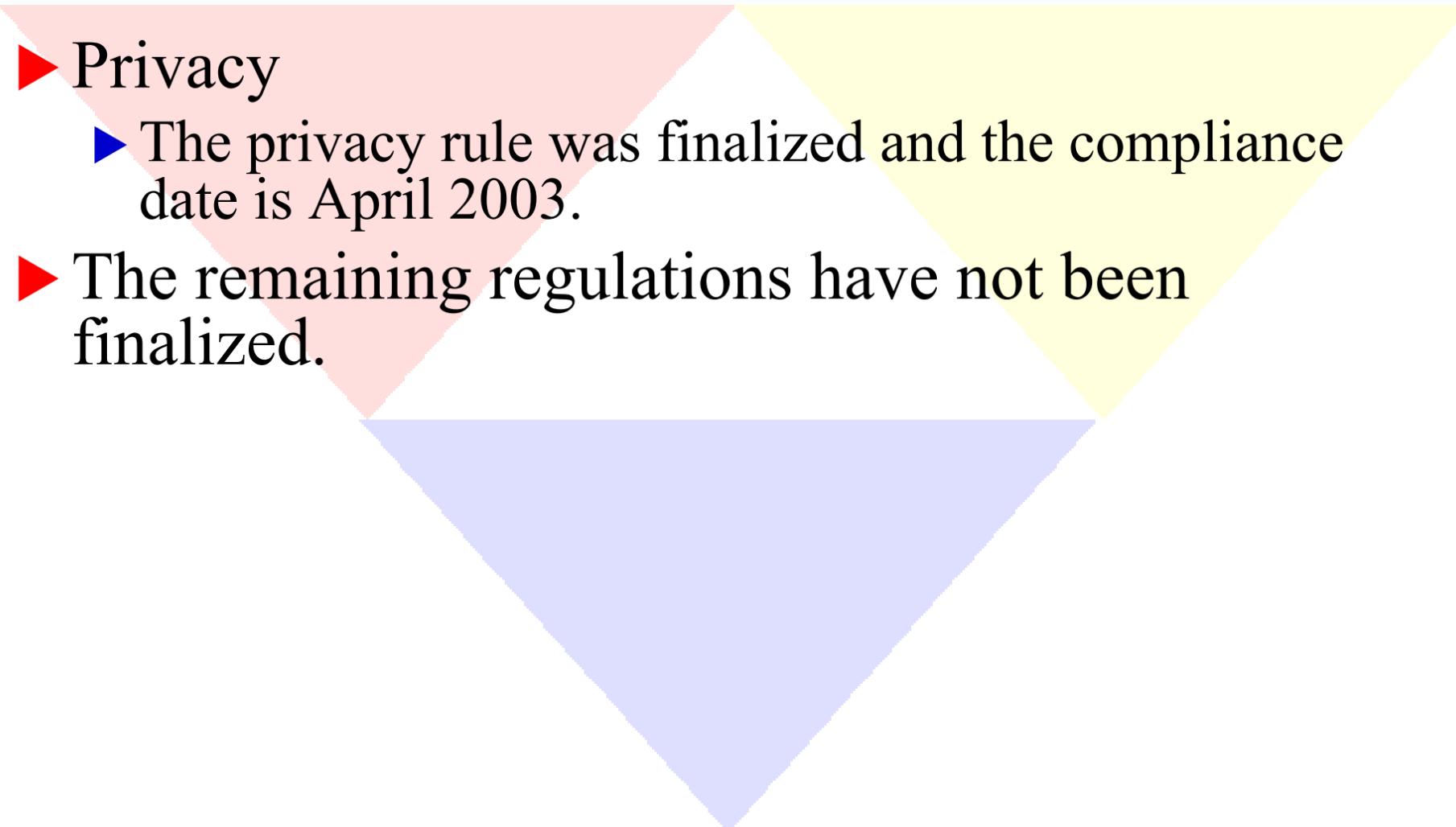
# Type of Data Regulated by HIPAA

- ▶ The transaction regulation governs all electronic data and paper records generated from the electronic data.
- ▶ This includes data that is:
  - ▶ transmitted by Internet, Intranets, leased lines, dial-up lines, private networks; and
  - ▶ the physical movement of data on diskette, CD, magnetic tape, etc.
- ▶ The proposed privacy regulation governs electronic, paper, and oral personal health information.

# Status of HIPAA Regulations

- ▶ Two regulations have been finalized.
- ▶ Transactions and Code Sets
  - ▶ The required compliance date is October 2002 unless the covered entity requests a delay and files a plan with Health and Human Services including
    - ▶ An analysis reflecting the extent to which, and the reasons why, the person is not in compliance
    - ▶ A budget, schedule, work plan, and implementation strategy for achieving compliance
    - ▶ Whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance
    - ▶ A timeframe for testing that begins not later than April 16, 2003

# Status of HIPAA Regulations



- ▶ Privacy

- ▶ The privacy rule was finalized and the compliance date is April 2003.

- ▶ The remaining regulations have not been finalized.



# Summary of the Two Finalized Regulations



# Transaction and Code Sets Regulation

Required Compliance Date

October 2002

Or

October 2003 with Plan to DHHS

# Objectives of the Transaction and Code Sets Regulation

- ▶ The intent of the regulation is to:
  - ▶ encourage electronic commerce in healthcare;
  - ▶ simplify administrative processes;
  - ▶ decrease administrative costs of healthcare; and
  - ▶ eliminate software adaptation for multiple formats.
- ▶ The benefits of the regulation are to:
  - ▶ support electronic transfer of information between providers, payers, and business associates;
  - ▶ reduce handling and process time;
  - ▶ eliminate the risk of lost paper documents; and
  - ▶ eliminate the inefficiencies of handling paper documents; and
  - ▶ improve overall data quality.

# Regulation Applicability

- ▶ The transactions and code sets regulation applies to any:
  - ▶ health plan;
  - ▶ healthcare clearinghouse; and
  - ▶ healthcare provider who transmits any health information in electronic form in connection with a transaction.
- ▶ Generally, if a covered entity conducts business with another covered entity (or within the same entity), using electronic media, the transaction must be conducted as a standard transaction.

# Transaction Standards Mandated by HIPAA

## ▶ National Standard Transaction Standards

- ▶ The regulation establishes the Accredited Standards Committee as the Designated Standards Maintenance Organization for transaction standards.
- ▶ These transactions are published in X12 ANSI ASC X12N standards, Version 4010 available at <http://www.x12.org/>
  - ▶ Healthcare claims or encounter information – ASC X12 837
  - ▶ Healthcare payment and remittance advise – ASC X12 835
  - ▶ Enrollment and dis-enrollment – ASC X12 834
  - ▶ Coordination of benefits – ASC X12 837
  - ▶ Healthcare claims status – ASC X12 276277
  - ▶ Eligibility for health plan – ASC X12 270271
  - ▶ Health plan premium payments – ASC X12 820
  - ▶ Referral certification and authorization – ASC X12 278
  - ▶ First report of injury and health claims attachments – to be decided

# Code Sets Mandated by HIPAA

- ▶ National Standard Code Sets
  - ▶ ICD-9-CM (vol. 1 & 2) codes will be required to identify diseases, injuries, impairments, other health related problems, their manifestations, and causes
  - ▶ CPT and CDT (Current Procedural & Dental Terminology) codes or ICD-9-CM (vol. 3) codes will be required to identify procedures or other actions taken to prevent, diagnose, treat, or manage diseases, injuries and impairments
  - ▶ HCPCS (Health Care Financing Administration Procedure Coding System) codes will be required to identify other health related services, substances, equipment, supplies, or items used in health care services
  - ▶ NDC (National Drug Council) codes will be required to identify prescription medications
- ▶ All local codes will be eliminated.

# No Local Code Sets Are Allowed Under HIPAA

- ▶ What are “local codes”?
  - ▶ They are codes that allow states to pay for and providers to bill and be paid for non-traditional services.
  - ▶ Many local codes are unique to a single state or state agency.
  - ▶ Most of the services paid for by the Department of Mental Health are under local codes.
  - ▶ HIPAA will require conversion of virtually all current DMH service codes to national codes.
- ▶ The elimination of local codes is a big concern of State Medicaid, Psychiatric, Substance Abuse, and Developmental Disability Authorities

# Cause of Concern

- ▶ The National Association of State Medicaid Directors formed a workgroup to solicit local codes used by all state Medicaid agencies and identified 27,000
- ▶ That workgroup has been working to crosswalk these and come up with 1,000 to 2,000 common ones which the US Dept. of Health and Human Services will be asked to add to the national standards.
- ▶ There was great concern that mental health, substance abuse, and developmental disability specific ones were not likely to be high priority for Medicaid agency directors.
- ▶ National mental health, substance abuse, and developmental disability organizations and agencies are currently working to assure that the national standards included service codes which meet the need of public sector agencies.



# Privacy Regulation

Required Compliance Date  
April 2003

# Status of Current Privacy Regulation

- ▶ The privacy regulation was finalized on December 29, 2000.
- ▶ However, on March 1, 2001 the US Dept. of Health and Human Services reopened the regulation for a 30 day comment period.
- ▶ It was finalized again April 14, 2001 with indications that there will be some minor changes later.
- ▶ The required compliance date is April 2003.

# Summary of Current Privacy Regulation

- ▶ Clients must give consent for release of any health information (internal and external)
- ▶ Clients must be given written explanation of, to whom and for what purposes information may be released
- ▶ Covered Entity must be able to provide 6 years of disclosures
- ▶ Clients must be able to access and amend records
- ▶ Agencies must have written policy and procedures on disclosure
- ▶ Agencies must train staff and designate privacy officer
- ▶ Agencies must have grievance policy
- ▶ Civil and criminal penalties for improper disclosure
- ▶ US Office of Civil Rights will enforce
- ▶ Current rule will change but must still be implemented April 2003



# Security Regulation

Currently a Proposed Rule

Target Date for Final Rule – February 2002

# Security Rule (Proposed)

- ▶ Must appoint a Security Officer and train staff
- ▶ Security Plan must include
  - ▶ Administrative Procedures
    - ▶ Contingency planning, security procedures, risk management, audit, and awareness training
  - ▶ Physical Safeguards
    - ▶ Security of the facility and controls over access to workstations and computer hardware
  - ▶ Technical Security Services
    - ▶ Computer-based security mechanisms, such as password, token, and biometric authentication methods
  - ▶ Technical Security Mechanisms
    - ▶ Production of audit trails, reporting and investigation of intrusion attempts, and message authentication.

# Business Associate and Chain of Trust Requirements

- ▶ Final HIPAA privacy regulations require business associate agreements between covered entities and business associates with whom individually identifiable health information is exchanged.
- ▶ Proposed HIPAA security regulations require chain of trust agreements between business associates that exchange data electronically.
- ▶ Business associates covered by such agreements must protect the integrity and confidentiality of data exchanged, thereby maintaining security at each link in the chain.



# Current HIPAA Activities

# Legislative and Legal Activities

- ▶ Bills passed in Congress to delay implementation
  - ▶ The House and Senate passed a bill to allow a covered entity to receive a delay in implementation of transactions and code sets by 1 year if they file a plan with HHS describing how they will become compliant
  - ▶ The bill was signed into law by the President on December 27, 2001
- ▶ There have been some federal lawsuits filed to overturn privacy rule as unconstitutional
  - ▶ These could take a long time to work through the courts

# How to Receive a Delay

- ▶ To receive a delay a covered entity must submit a compliance plan to the Department of Health and Human Services by October 16, 2002 containing:
  - ▶ An analysis reflecting the extent to which, and the reasons why, the person is not in compliance
  - ▶ A budget, schedule, work plan, and implementation strategy for achieving compliance
  - ▶ Whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance
  - ▶ A timeframe for testing that begins not later than April 16, 2003
- ▶ DHHS is required to produce a model compliance plan by March 2002

# Missouri SNIP

- ▶ SNIP is the Strategic National Implementation Process formed by the Workgroup for Electronic Data Interchange (WEDI).
- ▶ Missouri SNIP is a collaborative healthcare organization formed of industry-wide representation working together to provide the local Midwest with HIPAA solutions and further the development of standardization within the industry.
- ▶ Missouri SNIP meets monthly in Columbia
- ▶ For more information about the Missouri HIPAA
  - ▶ Web site: <http://www.mosnip.com>
  - ▶ E-mail: [info@mosnip.com](mailto:info@mosnip.com)

# What to Do to Prepare for HIPAA

- ▶ Become familiar with the proposed and final rules.
- ▶ Pull together a cross-functional HIPAA Compliance Core Team in your agency to evaluate the impact of the changes to your organization. *(The law requires that each covered entity have one)*
- ▶ Identify areas with the most significant impact to operations.
- ▶ Estimate the resources that will be needed to implement.
- ▶ Take part in Missouri SNIP.
- ▶ Watch for information from DMH HIPAA Work Group.

# Helpful Websites

- ▶ DHHS Administrative Simplification Homepage  
<http://aspe.hhs.gov/admnsimp>
- ▶ American Health Information Management Association  
<http://www.ahima.org>
- ▶ Health Privacy Project  
<http://www.healthprivacy.com>
- ▶ Department of Mental Health HIPAA Page  
<http://www.modmh.state.mo.us/homeinfo/hipaa/index.htm>